HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT APPEAL NOS.505 and 508 OF 2006

WRIT APPEAL No.505 of 2006

Between:

A.Venku Reddy

. . .Appellant

AND

The Commissioner and Director
of School Education and others

. . .Respondents

WRIT APPEAL No.508 of 2006

Between:

M.K.R.High School Committee

. . .Appellant

AND

The Commissioner and Director
of School Education and others

. . .Respondents

Counsel for the appellants :Sri P.Venugopal
for Sri T.V.S.Prabhakar
Rao

Counsel for the respondent Nos.1 to 3: Government Pleader for
School Education

Counsel for the respondent No.4 : Sri M.V.S.Suresh Kumar
for Sri M.R.S.Srinivas

Dated: 24th August, 2006

: COMMON JUDGMENT :

PER G.S.SINGHVI, CJ

These appeals are directed against order dated 11.07.2005 passed by the learned Single Judge in Writ Petition Nos.24753 of 2004 and 1476 of 2005 whereby he rejected the appellants challenge to proceedings in R.C.No.702/B2-3/2003, dated 09.12.1994 issued by Director of School Education.

In the writ petition filed by them, the appellants i.e. A.Venku Reddy and M.K.R.High School Committee represented by its Life Member, Meda Ashok Kumar Reddy questioned the legality of proceedings dated 9-12-1994 issued by the Director of School Education (respondent No.1 herein) by asserting that the same is ultra vires to Section 24 of the Andhra Pradesh Education Act, 1982 (for short, 'the Act') and the rules framed thereunder. In the affidavit filed by him, Sri A.Venku Reddy (appellant in Writ Appeal No.505 of 2006) averred that he had been elected as Correspondent by the members of M.K.R. High School Committee. He then referred to some litigation instituted by Sri M.Cahndrasekhar Reddy, order dated 5-11-2004 passed by the learned Single Judge in Writ Petition No.5765 of 2004 and averred that the action initiated by respondent No.1 under Section 24 of the Act is patently illegal, unwarranted and unjustified. In the writ petition filed by the school committee, similar averments were made. The learned Single Judge referred to the factual matrix of the case,

arguments of the learned counsel for the parties, Section 24(3)(a) and (b) of the Act and observed:

> "So far as application under Section 24(3)(a) of the Act is concerned, when the management is responsible for the lapses or irregularities of the institution, the competent authority may, after giving an opportunity, suspend the management. The Commissioner of School Education is a competent authority insofar as suspending the management is concerned. There is a distinction between the Manager and the Management under Sub-Section 2 of Section 24, which reads as thus:
>
> > "(2) The management shall, for the purposes of this Act, nominate a person to manage the affairs of the institution, whether called by the name of secretary, correspondent or by any other name, and intimate such nomination within thirty days thereof to the competent authority."
>
> Sub-Section 1 of Section 24 of the Act, which reads as thus:
>
> > "1. The management of every private institution shall be constituted in such manner and shall consist of such number of members as may be prescribed:
> >
> > Provided that the Board of Trustees, or Governing Body or Wakf Board, by whatever name called, constituted or appointed under any other law for the time being in force relating to the charitable and religious institutions and endowments and wakfs, shall be deemed to be a management constituted under this sub-section.
> >
> > (Provided further that the constitution of the management under this Sub-section shall apply to a

minority educational institution, insofar as it is not repugnant to Clause (1) of Article 30 of the Constitution of India)."

Therefore, both the definitions would go to show that the Manager is a person who manages the affairs of the institution and the Management means the managing committee. If the case falls under Section 3 (b) of the A.P. Education Act, then certainly the contention of the learned counsel for the petitioners can be accepted. Whereas, if the case falls under Section 3 (a) of the said Act, the contention of the learned Government Pleader for School Education can be accepted. Learned counsel for the petitioners submits that the lapses or irregularities are pointed out against Mr.A.Venku Reddy as a Correspondent, have been proved. Therefore, for the lapses, if any, committed by the Manager, the management cannot be suspended. No doubt, in the impugned proceedings certain allegations and complaints against the Manager i.e. correspondent are proved. If the show cause notice is based upon those allegations alone, then certainly the case falls under Section 24 (3)(b) of the Act. But, a further reading of the show cause notice would also clearly indicate that the management allowed the correspondent beyond three years and therefore, the management was called upon to give an explanation. So, the lapses or irregularities, if any, as culled out from the impugned notice is that continuation of A. Venku Reddy beyond three years as Correspondent against whom certain allegations or complaints are received, the case squarely falls under Sub-Section 3 (a) of Section 24 of the Act. Therefore, the Director of

School Education is the competent authority to give show cause notice and an opportunity may be given to make representation for the reasons to be recorded in writing. So, it is for the management to give explanation to the show cause notice. Since the order under challenge is completely in consonance with Section 24 (3) of the Act, it cannot be said to be illegal and arbitrary.

Several contentions, such as, the Regional Joint Director had not conducted any enquiry and no charge sheet has been issued against the ex-correspondent are raised, all these matters are required to be decided by the competent authority i.e. the Regional Joint Director of School Education, in accordance with law. Therefore, the impugned order does not suffer from any legal infirmities so as to call for interference of this Court."

Shri P.Venugopal, learned counsel for the appellants invited our attention to Section 24 of the Act and argued that the notice impugned in the writ petitions does not disclose any cause which could warrant initiation of action against the management of the school under Section 24(3)(a) and the learned Single Judge committed a serious error by declining the appellants' prayer for quashing proceedings dated 9-12-2004.

Learned Government Pleader for School Education and Shri M.V.S.Suresh Kumar for the added respondent argued that the reasons assigned by the learned Single Judge for refusing to entertain the appellants challenge to notice dated 09.12.2004 are correct and the appeals should be dismissed.

We have thoughtfully considered the respective arguments.

Section 24 (1), (2) and (3) of the Act reads as under:

"Sec.24. Appointment and removal of manager of private institution:-

(1) The management of every private institution shall be constituted in such manner and shall consist of such number of members as may be prescribed:

Provided that the Board of Trustees, or Governing Body or Wakf Board, by whatever name called, constituted or appointed under any other law for the time being in force relating to the charitable and religious institutions and endowments and Wakfs, shall be deemed to be a management constituted under this sub-section:

[Provided further that the constitution of the management under this sub-section shall apply to a minority educational institution, insofar as it is not repugnant to clause (1) of Article 30 of the Constitution of India.]

(2) The management shall, for the purposes of this Act, nominate a person to manage the affairs of the institution, whether called by the name of secretary, correspondent or by any other name, and intimate such nomination within thirty days thereof to the competent authority.

(3) (a) Where the competent authority is satisfied that the management is responsible for the lapses or irregularities of the institution, the competent authority may, after giving to such management an opportunity to make representation and for reasons to be recorded in writing, suspend the management and appoint a special

officer till the reconstitution of the management:

Provided that in relation to a private institution, under the management of a charitable or religious institution, charitable or religious endowment and a Wakf, the competent authority shall be the Government or an authority or officer authorized by the Government in this behalf;

[Provided further that no management of minority educational institution shall be suspended under this sub-section save for mis-management].

(b) Where the competent authority is satisfied that the manager alone is responsible for the lapses or irregularities of the institution, action shall be taken against him by the management, as recommended by the competent authority."

A reading of the above reproduced provision makes it clear that the competent authority may, after giving the management of the school an opportunity to make representation, suspend the management and appoint a special officer. The exercise of this power is hedged with the condition that the competent authority has to record reasons in writing for passing an order of suspension. In terms of clause (b) of Section 23, the competent authority can take action against the management of the school, who may be found as responsible for lapses or irregularities of the institution.

If notice dated 9-12-2004 is scrutinized in the light of the above noted provision, there is no escape from the conclusion that the same is in consonance with the plain language of Section 24(3) and the learned Single Judge did not commit any error by refusing to entertain the appellants' challenge. We entirely agree with him. In our opinion, the appellants could have represented to respondent No.1 that action initiated under Section 24 (3) is untenable. They could have also

challenged the jurisdiction of respondent No.1 to initiate action under that section. Respondent No.1 could then consider the objections and decide the same. However, the fact of the matter is that instead of adopting that course and availing the opportunity, the appellants rushed to this Court. To their misfortune, the learned Single Judge refused to entertain their prayer for quashing notice dated 09.12.2004.

The argument of Shri P.Venugopal that the notice does not satisfy the conditions enumerated in Section 24(3) cannot be accepted for the simple reason that in the representation to be made by the management, all objections, legal as well as factual, could be taken by the appellants. They could also make prayer for dropping the action initiated vide notice dated 9-12-2004 and there is no justification for judicial intervention by the Court at the threshold of the proceedings.

For the reasons mentioned above, the appeals are dismissed.

As a sequel to dismissal of the appeals, W.A.V.M.P.Nos.1540 and 1539 of 2006 filed by the respondents are disposed of as infructuous.

Since the appeals have been dismissed, we deem it proper to give two weeks time to the appellants and/or management of the school to represent against the action proposed in terms of notice dated 09.12.2004 and direct that the competent authority shall consider such representation and pass appropriate order within next two months by recording reasons reflecting application of mind to the points raised in the applications. Needless to say that the competent authority shall pass order without being influenced by the fact that the appellants had filed writ petitions and writ appeals questioning notice dated 09.12.2004.

While disposing of the appeals in the manner indicated above, we make it clear that disposal of the writ petitions and writ appeals by

this Court shall not be construed as conferring legitimacy on the status of the appellants.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

Date: 24.08.2006

kvni